

1 McGREGOR W. SCOTT  
United States Attorney  
2 DAVID L. GAPPA  
Assistant U.S. Attorney  
3 2500 Tulare Street, Suite 4401  
Fresno, California 93721  
4 Telephone: (559) 497-4000  
5  
6  
7  
8  
9  
10  
11

12 IN THE UNITED STATES DISTRICT COURT FOR THE  
13 EASTERN DISTRICT OF CALIFORNIA

14 UNITED STATES OF AMERICA, ) CR-F-05-00063 LJO  
15 )  
Plaintiff, )  
16 ) STIPULATION TO SUSPEND BRIEFING  
v. ) UNTIL DIRECT APPEAL IS RESOLVED  
17 )  
LUIS C. RODRIGUEZ, )  
18 )  
19 Defendant. \_\_\_\_\_ )  
20 \_\_\_\_\_ )  
21

22 STIPULATION

23 The parties have agreed to suspend the briefing schedule for  
24 this case until the defendant's direct appeal, currently pending  
25 at the United States Court of Appeals for the Ninth Circuit, is  
26 resolved. Briefing in that matter is still underway. The Ninth  
27 Circuit's decision in the pending appeal is likely to have a  
28 direct impact on the potential issues in this case. Normally a

1 petition for writ of habeas corpus is not brought or entertained  
2 until after the underlying case is resolved. Here, it is  
3 probable that the Ninth Circuit's decision will impact the  
4 petition for a writ of habeas corpus that is now pending before  
5 this Court. Accordingly, the parties have agreed to suspend  
6 further briefing until the direct appeal is resolved.

7  
8  
9 Dated: July 8, 2008

Respectfully submitted,

10 MCGREGOR W. SCOTT  
11 United States Attorney

12 By: /s/ David L. Gappa  
DAVID L. GAPPA  
Assistant U.S. Attorney

13  
14 /s/ Eric Schweitzer  
ERIC SCHWEITZER  
Counsel for Luis Rodriguez  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, ) CR-F-05-00063 LJO  
Plaintiff, )  
v. ) ORDER REGARDING STIPULATION TO  
LUIS C. RODRIGUEZ, ) SUSPEND BRIEFING UNTIL DIRECT  
Defendant. ) APPEAL IS RESOLVED  
\_\_\_\_\_ )  
\_\_\_\_\_ )

ORDER

The court has reviewed and considered the stipulation of the parties to suspend the briefing in the petition for writ of habeas corpus until the defendant's direct appeal is resolved. Good cause appearing, this Court orders:

1. Briefing on Defendant's 28 U.S.C. §2255 motion is held in abeyance until Defendant's direct appeal is resolved;
2. The July 29, 2008 motion hearing is vacated; and
3. The parties shall file a joint status report to this Court, **no later than October 9, 2008**, to inform this Court of the direct appeal's status and whether this Court should reset the 28 U.S.C. §2255 motion briefing schedule.

IT IS SO ORDERED.

Dated: July 8, 2008

/s/ Lawrence J. O'Neill  
UNITED STATES DISTRICT JUDGE